

## § 1.489

claim lacks novelty or is clearly obvious, leaving two or more claims joined thereby without a common inventive concept. In such a case the International Preliminary Examining Authority may raise the objection of lack of unity of invention.

[52 FR 20049, May 28, 1987, as amended at 58 FR 4346, Jan. 14, 1993; 62 FR 53200, Oct. 10, 1997]

### § 1.489 Protest to lack of unity of invention before the International Preliminary Examining Authority.

(a) If the applicant disagrees with the holding of lack of unity of invention by the International Preliminary Examining Authority, additional fees may be paid under protest, accompanied by a request for refund and a statement setting forth reasons for disagreement or why the required additional fees are considered excessive, or both.

(b) Protest under paragraph (a) of this section will be examined by the Director or the Director's designee. In the event that the applicant's protest is determined to be justified, the additional fees or a portion thereof will be refunded.

(c) An applicant who desires that a copy of the protest and the decision thereon accompany the international preliminary examination report when forwarded to the Elected Offices, may notify the International Preliminary Examining Authority to that effect any time prior to the issuance of the international preliminary examination report. Thereafter, such notification should be directed to the International Bureau.

[52 FR 20050, May 28, 1987]

## NATIONAL STAGE

### § 1.491 National stage commencement and entry.

(a) Subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22 (1) or (2), or under PCT Article 39(1)(a).

(b) An international application enters the national stage when the applicant has filed the documents and fees

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required by 35 U.S.C. 371(c) within the period set in § 1.495.

[67 FR 523, Jan. 4, 2002]

### § 1.492 National stage fees.

The following fees and charges are established for international applications entering the national stage under 35 U.S.C. 371:

(a) The basic national fee for an international application entering the national stage under 35 U.S.C. 371 if the basic national fee was not paid before December 8, 2004:

|                                   |          |
|-----------------------------------|----------|
| By a small entity (§ 1.27(a)) ... | \$165.00 |
| By other than a small entity      | \$330.00 |

(b) Search fee for an international application entering the national stage under 35 U.S.C. 371 if the basic national fee was not paid before December 8, 2004:

(1) If an international preliminary examination report on the international application prepared by the United States International Preliminary Examining Authority or a written opinion on the international application prepared by the United States International Searching Authority states that the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined in PCT Article 33(1) to (4) have been satisfied for all of the claims presented in the application entering the national stage:

|                                   |        |
|-----------------------------------|--------|
| By a small entity (§ 1.27(a)) ... | \$0.00 |
| By other than a small entity      | \$0.00 |

(2) If the search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:

|                                  |          |
|----------------------------------|----------|
| By a small entity (§ 1.27(a)) .. | \$50.00  |
| By other than a small entity     | \$100.00 |

(3) If an international search report on the international application has been prepared by an International Searching Authority other than the United States International Searching Authority and is provided, or has been previously communicated by the International Bureau, to the Office:

|                                   |          |
|-----------------------------------|----------|
| By a small entity (§ 1.27(a)) ... | \$215.00 |
| By other than a small entity      | \$430.00 |